

Remarks/Arguments

In the Office Action, Paper No. 5, the examiner rejected the applicant's claims 1-10 under the judicially created doctrine of obviousness-type double patenting and under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,678,793 to Hill. In response, the applicant is submitting herewith a terminal disclaimer and is amending claims 1, 6, 8, and 10 to define the invention more clearly over Hill. Also, new claims 11-14 are added.

Re: Claim 1:

There is clearly nothing in Hill that is anything like the concave beveled surface 42 of applicant's telephone holder, which is best seen in Figures 3, 4, and 5 and described in the specification, paragraph [0028]. Therefore, it appears that the examiner was probably construing the words in applicant's claim 1 as broadly as possible to find anticipation by components and shapes in Hill that have no conceivable relationship, either structural or functional, to applicant's invention. For example, the examiner pointed to the underside 32A of Hill as meeting the applicant's recitation of an "underside . . . that terminates at one end with a concave slanted surface", which stretches those words about as far as they can be stretched, and that structure 32A has no comparable function to the concave beveled surface 42 of the present invention. Therefore, claim 1 is now amended to more clearly exclude the Hill structure, but is not otherwise narrowed in scope or coverage. Therefore, applicant believes claim 1 is now allowable over Hill.

Re: Claim 6:

Likewise, the examiner has construed the language of applicant's claim 6 in a manner that stretches the recitation of "a pair of elongated ridges" to cover, for example, the tabs 34A and 34B of Hill, which have no similarity in structure or function to the guide ridges 34, 36 of the applicant's invention. Therefore, claim 6 is now amended to more clearly exclude the Hill structure, but it is not otherwise narrowed in scope or coverage. Therefore, applicant believes claim 6 is now allowable over Hill.

Please note, in this regard, that Hill does not provide a guide channel for the clip on the underside of his device, and applicant has amended paragraph [0029] to provide the channel terminology as a convenient way of describing that feature for support of the amended claim 6. A channel structure, which includes a portion of the underside 40 of shelf 30 between ridges 34,

36, is shown clearly in Figures 4 and 5, so there is no new matter added by these amendments to the specification.

Re: Claim 10:

Again, the examiner's designation of Hill's suction cups 44A and 44B as meeting applicant's "stem" in claim 10 is a very broad construction. Dictionary definitions of "stem" (usually some variation of a main ascending axis, stalk, or trunk; slender, upright support of an object; etc.) have little or no relevance to suction cups. Therefore, claim 10 is now amended to more clearly exclude the Hill structure, but it is not otherwise narrowed in scope or coverage. Claim 10, as amended, is now believed to be clearly allowable over Hill under 35 U.S.C. § 102(b), and the examiner is requested to withdraw that rejection.

Re: Claims 11 and 12:

New claims 11 and 12 are added to claim more fully the guide channel feature for the clip and its stabilizing function for a telephone mounted on the elongated shelf 30, as explained above in relation to claim 6 and in paragraph [0029] of the specification, irrespective of how it is formed. Nothing similar is shown in Hill and these new claims 11 and 12 are believed to be allowable.

Re: Claim 13:

New claim 13 recites the applicant's invention in a manner that is not shown by Hill, including the planar shape, which has advantages over the non-planar shape of Hill. For example, Hill's structure is to hold his bracket away from a window on which it is mounted, whereas applicant's planar structure eases mounting and provides better stability and support for the telephone, not only after it is mounted in place, but also while it is being initially positioned for mounting and moved into place, which is not shown or suggested by Hill. Therefore, claim 13 is believed to be allowable over Hill under 35 U.S.C. § 102 as well as under 35 U.S.C. § 103.

Re: Claim 14:

New claim 14 is added to claim the apparatus of this invention, which distinguishes the invention over Hill by reciting a planar support surface that terminates in a beveled edge for spreading the belt clip from the portable telephone. In contrast, the beveled surface of Hill is not co-planar with the support surface and has an entirely different purpose, i.e., to support Hill's bracket 22 on dust seal 20 of a window. Thus, there is no disclosure or incentive in Hill

to provide a co-planar beveled surface to facilitate mounting of the portable telephone and belt clip. In fact, Hill teaches the opposite, i.e., to not bevel his end 28 where the telephone belt clip mounts. Therefore, not only is the invention recited in new claim 14 not anticipated by Hill under 35 U.S.C. § 102, but it is also not obvious in view of Hill under 35 U.S.C. § 103.

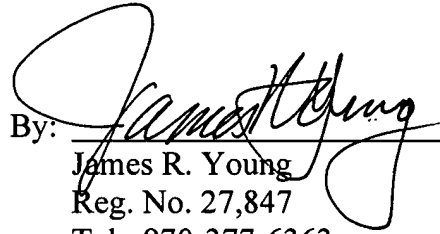
Re: Claims 15 and 16:

Claims 15 and 16 are method claims added to cover the method of stowing a portable telephone in a vehicle according to the features discussed above in relation to claims 1 and 6 and as described in paragraphs [0028] and [0029] of the specification. Therefore, these claims 15 and 16 are believed to be allowable over Hill

SUMMARY

All of the claims 1-16 as amended are believed to be allowable under 35 U.S.C. § 102(b) as well as 35 U.S.C. § 103 over Hill for the reasons explained above. Therefore the Examiner is requested to withdraw his rejections and to grant an early allowance. If any issues remain to be resolved, the Examiner is requested to contact applicant's attorney at the telephone number listed below.

Respectfully Submitted,
COCHRAN FREUND & YOUNG LLC

By: 
James R. Young
Reg. No. 27,847
Tel.: 970-377-6363
Fax: 970-207-1985